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provided they meet the requirements of necessity and relevancy, and in certain cases the rule has been extended so far as to secure the admission of facts particularly relevant as primary evidence.

Of particular excellence is the treatment accorded the subject of *res gestae*, the term of such frequent use but more frequent misuse, due, as the author says, to the regrettable extension and consequent confusion in American law of the well defined term of Lord Cockburn.

It is perhaps inevitable that so monumental a work as this should be entirely free from discrepancies. For instance, in paragraph 3282 the rule is stated that evidence of the good character of a party in a prosecution for arson cannot be received, while turning to paragraph 3290 we are told that in a prosecution for arson the trait most nearly relevant is probably honesty and that such evidence would *most likely be received*. But a momentary perplexity is probably the most serious result that will arise from such inaccuracies where they exist.

To the fourth volume is appended an index for the series, and without exception or qualification it is the best and the most valuable that has ever been called to the reviewer's attention; apparently no key-word has been omitted, and this important feature will contribute much toward popularizing a work which is unquestionably destined to take pre-eminence among treatises on evidence.

If the work has any serious defects they are certainly latent. It may appear to some that it is perhaps a trifle inclined toward the philosophical, but if this is a fault it is certainly an excusable one, for it must be borne in mind that the problems of evidence are very often of a philosophical nature.

H. S.

The Supreme Court and the Appellate Power Under the Constitution. By Edwin Countryman. Bender & Co., Albany, N. Y. 1913.

This work contains a powerful attack upon the surrender by the Supreme Court of its appellate power. It does not purport to be, as the introduction states, "a dissertation upon the judicial interpretation of the Constitution, but a criticism of the refusal

of the Supreme Court in certain cases to act as a check upon the power of Congress or the Executive by exercising its appellate jurisdiction." Twenty-two cases are specifically discussed and many others noticed.

The author attributes loss of jurisdiction by the Court to the compliance of the Court itself, based upon dicta in early decisions, which Congress was not slow to seize upon. He concludes that the Supreme Court cannot be constitutionally deprived of its appellate power by legislation since such power is derived from the Constitution and not from Congress; that it extends over all the territory of the United States and attaches thereto, *ipso facto*, on annexation; and that necessarily all forensic controversies in such territory involving the validity of acts of the Executive and Judiciary are to be determined by the Court. Especially does he deny the conclusion of the Court in refusing to pass upon the question of whether a given state possesses a republican form of government. Opinions by the different justices are quoted at length and carefully reviewed both from a legal and historical standpoint. A reading of the book will most certainly repay the student of American Constitutional Law.

B. P. M.